

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Bert Rodriguez, John E. Born, Scott Belger,)
Edward Schneider, Oscar Lopez, Dominic)
Schartner, Marcus Pioro, Christopher Martin,)
Terry Kimes, Robert Ferraren, John Sutton, Jasem)
Askar, Andrew Kamin, Mark Godawski, Jose)
Ochoa, Ray Suckash, William Carpenter,)
individually and on behalf of all other persons)
similarly situated who are or were employed by)
SimplexGrinnell LP with respect to Public Works)
Projects referenced in this Complaint,)

Plaintiffs,

V.

SimplexGrinnell LP, a Delaware limited partnership, d/b/a Tyco SimplexGrinnell,

Defendant.

Honorable Judge Jorge L. Alonso

Case No. 1:16-cv-09605

SUPPLEMENTAL DECLARATION OF PETER O. HUGHES

I, Peter O. Hughes, do declare and state as follows:

1. I am an attorney at law and am admitted pro hac vice in this matter representing defendant, SimplexGrinnell, L.P. I submit this supplemental declaration in further support of Defendant's Cross-Motion for Partial Summary Judgment.
2. I make this declaration based upon personal knowledge and review of the public records.
3. Attached hereto as Exhibit C are pages 1, 72, and 73 of the transcript of the Illinois House of Representatives, 93rd General Assembly 2003 Regular Session, Session No. 62, May 21, 2003, found on Westlaw at "IL H.R. Tran. 2003 Reg. Sess. No. 62".

4. Attached hereto as Exhibit D are pages 1, 71, and 72 of the transcript of the Illinois Senate, 95th General Assembly 2007 Regular Session, 45th Legislative Day, May 24, 2007, found on Westlaw at "IL S. Tran. 2007 Reg. Sess. No. 45".

I hereby declare under penalty of perjury that the foregoing is true and correct. Executed on this 21st day of May 2019.



Peter O. Hughes

38608901.1

EXHIBIT C

IL H.R. Tran. 2003 Reg. Sess. No. 62

House Transcript, 93rd General Assembly, Regular Session, 62nd Legislative Day

May 21, 2003

Illinois House of Representatives
93rd General Assembly, 2003 Regular Session

Speaker Madigan: "The House shall come to order. Members shall be in their chairs. We would ask you to turn off your cell phones, your computers, your pagers. We'd ask the guests of the gallery to rise and join us for the invocation and the Pledge of Allegiance. Guests in the gallery shall please rise. We shall be led in prayer today by Lee Crawford, the Assistant Pastor of the Victory Temple Church in Springfield."

Lee Crawford: "Let us pray as we lift our hearts and our minds before His heavenly throne. Most gracious and most kind God, Creator of us all, for we realize that it is from You for all of our blessings and our help come. Look upon us gathered here with Your favor. We ask that You would direct us in all of our actions. Grant to us vigilant and hearts. Give us minds to know You. Give us the diligence to seek You and the wisdom to find You. I pray that You will sanctify and cleanse us with Your presence. Bless us with Your tremendous might and assist us with Your wonderful council, that all of our endeavors, that they may begin with You and that they may be through You, that at the end of this day we will rejoice in all that You have done. This we ask in Your Son's name. Amen."

Speaker Madigan: "We shall be led in the Pledge of Allegiance by Representative Fritchey."

Fritchey - et al: "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

Speaker Madigan: "Roll Call for Attendance. Representative Currie."

Currie: "Thank you, Speaker. Please let the record show that we have no excused absences to report today."

Speaker Madigan: "Mr. Bost."

Bost: "Yes, Mr. Speaker, if the record would reflect that Representative Pankau is excused today and she's excused because... she is a new grandmother. The baby was born last... this morning at about 3 a.m. His name is William Francis McCorkle IV. He's nine... was nine and a half pounds and everything's well and we want to wish her well, but if she could be excused."

Speaker Madigan: "The Clerk shall take the record. There being 117 Members responding to the Attendance Roll Call, there is a quorum present. Representative Jakobsson."

Jakobsson: "Thank you, Mr. Speaker. I'd like to introduce some friends who are visiting us today in the gallery. Jolene Wilks is here and her daughter is shadowing her today Katie. So please, welcome them. I'm sorry, Cynthia Cunningham and her daughter and then Jolene Wilks is accompanying them. Please welcome them today."

Speaker Madigan: "Representative Chapa LaVia."

Chapa LaVia: "Thank you, Speaker. A point of personal privilege. A West Aurora High School graduate who joined the Marines to play in its drum and bugle corps was killed Monday when his helicopter crashed during a resupply mission in central Iraq. First Lieutenant Timothy Ryan who graduated..."

Speaker Novak: "The Sponsor will yield."

Parke: "Representative, what are you expanding, from what to what?"

O'Brien: "Well, I don't know if... it more... it's more clarification. I don't know exactly what you're asking. One thing is that we are requiring that all of the Illinois FIRST projects be included. We have clarified what a publicly-funded project is, but we're deleting the requirement that it have a public use, that's on page 1, line 14. It's saying that instead of going from... that it'd have to be a public building per se, that it be a publiclyfunded project to be covered under the Act."

Parke: "Ladies and Gentlemen, to the Bill."

Speaker Novak: "To the Bill."

Parke: "These kinds of Bills are gonna continue to pass. It is our responsibility to rise in opposition. I will point out to those that are interested that the State Chamber of Commerce, Employment Law Council, the NFIB, Township Officials of Illinois, the Illinois Manufacturers' Association, and the Illinois Municipal League all stand in opposition to this legislation. I would ask that you vote 'no' on this Bill."

Speaker Novak: "Further discussion? The Gentleman from Madison, Mr. Davis, Steve Davis."

Davis, S.: "Thank you, Speaker. Will the Sponsor yield?"

Speaker Novak: "Sponsor yields."

Davis, S.: "Yes, Representative O'Brien, I rise in support of your fine Bill that you have here."

O'Brien: "Thank you, Representative."

Davis, S.: "Could you tell the Body who the proponents of the Bill are?"

O'Brien: "I start by telling you that the State AFL-CIO, Laborers' International are both proponents of this legislation."

Davis, S.: "Okay. Representative, I have three questions dealing with the legislative intent of the Bill. The first question is, as it pertains to Prevailing Wage Law, do the changes proposed in Senate Bill 1212 affect infrastructure improvements constructed by the private sector and later dedicated to a public body?"

O'Brien: "No."

Davis, S.: "Do the proposed changes in Senate Bill 1212 expand prevailing wage to the private sector, prior to the dedication and acceptance of infrastructure improvements from a private developer to a unit of local government?"

O'Brien: "No."

Davis, S.: "And the third question, Representative, is... does Senate Bill 1212 change the exemption from the Prevailing Wage Act for local government employees who perform construction or maintenance work for their government employers as established by the City of Monmouth v. Lorenz and other court cases?"

O'Brien: "No."

Davis, S.: "Thank you very much, Representative."

O'Brien: "Thank you, Representative."

Speaker Novak: "Further discussion? The Gentleman from Vermilion, Mr. Black."

Black: "Thank you very much, Mr. Speaker and Ladies and Gentlemen of the House. To the Bill."

Speaker Novak: "To the Bill."

Black: "If you'll focus on one or two sentences in this Bill, I don't know what the ramifications will be, but there is a significant expansion of my definition of public works that appears in this Bill. That says, the wage for a tradesman performing maintenance is equivalent to that of a tradesman engaged in construction. Now, to me, the definition of public works, meaning all fixed work constructed for public use by a public body using public funds. That's the accepted definition of a public works project and the prevailing wage that applies. As I read this Bill, it expands the scope of the Act to also include all projects for which only maintenance of a project is taking place, not new construction but maintaining the construction that has already taken place. So, you're telling me that a maintenance person doing work to maintain a project that was built by public works, regardless of what that maintenance person is paid to do that job, all of a sudden if he works on a building that was a public works project 20 years ago, now he's doing routine maintenance work, the maintenance person will be paid prevailing wage. That has historically not been the case on any public works project. I don't know, I'm not an attorney, the Sponsor is, and I have great confidence in her ability to set me straight if I'm wrong. But, I almost wonder... a public school, financed by a public bond issue, is a public construction project and covered under the prevailing wage. I don't have any problem with that, it's been that way for as long as I can remember. But as I read the language in here, a maintenance person keeping the floors clean, or replacing the damaged ceiling tile, or replacing a damaged door would be subject to the same wage as a tradesman in construction. That is a significant difference in what those people are paid. And the bill in this case would be paid by a school district. I don't think that's the intent of the language, but that's part of the confusion in this Bill. And if, in fact, that's what it does, then we're gonna hear letter... we're gonna get letters from school districts, from city... cities, townships, counties, all of whom hire maintenance people to perform routine maintenance. And, as I understand this definition, all of a sudden that maintenance person who may be paid \$10, \$11, \$12 an hour, whatever the contract says, may now be subject to the prevailing wage or the same wage as a tradesman involved in the construction of the public works project. That could in some cases double or even triple the wage rate paid to that maintenance person. Again, I don't think that's the intent, but that's the confusing part of this Bill. And if, in fact, it proves to be true, we're all gonna hear it from school districts, city halls, townships, and county governments because they aren't gonna be able to meet that standard and they aren't gonna be able to afford that increase in payroll."

Speaker Novak: "Further discussion? Representative O'Brien to close."

O'Brien: "Thank you, Mr. Speaker. This is a point of clarification. On an ongoing construction project there is also maintenance when there is new construction and that is often the tradesmen and laborers' union. This Amendment and this work on this Bill is meant to deal with them, not someone that would change light bulbs or be employed by a school district for the regular maintenance of their facility. But when you have new construction, there is a lot of maintenance and that work... it goes to tradesmen and we wanna make sure that they are covered under this Act as was the intent of the original. And with that I will close and urge an 'aye' vote. Thank you."

Speaker Novak: "Thank you. The question is, 'Shall Senate Bill 1212 pass?' All those in favor vote 'aye'; all those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there are 82 voting 'yes', 31 voting 'no', 3 voting 'present'. And having reached the required Constitutional Majority, Senate Bill 1212 is hereby declared passed. Representative Graham."

Graham: "Thank you, Mr. Speaker. A point of personal privilege."

Speaker Novak: "State your point, Ma'am."

Graham: "On Senate Bill 1204, I am a Sponsor... cosponsor on that Bill. I pressed 'yes', but it did not light up. So, I want the record to reflect that I am an 'aye' vote on that Bill."

EXHIBIT D

IL S. Tran. 2007 Reg. Sess. No. 45

Senate Transcript, 95th General Assembly, Regular Session, 45th Legislative Day

May 24, 2007

Illinois Senate

95th General Assembly, 2007 Regular Session

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|--------|-------------------------|-----|
| HB0001 | Motion Filed | 10 |
| HB0003 | Motion Filed | 10 |
| HB0029 | Second Reading | 97 |
| HB0118 | Second Reading | 98 |
| HB0133 | Recalled | 162 |
| HB0235 | First Reading | 7 |
| HB0271 | First Reading | 7 |
| HB0334 | Second Reading | 97 |
| HB0358 | Second Reading | 97 |
| HB0405 | Recalled | 159 |
| HB0411 | Second Reading | 98 |
| HB0624 | Second Reading | 98 |
| HB0699 | Second Reading | 98 |
| HB0734 | Recalled | 160 |
| HB0804 | Recalled | 163 |
| HB0822 | Recalled | 160 |
| HB0876 | Postponed Consideration | 153 |
| HB0876 | Third Reading | 102 |
| HB0909 | Third Reading | 108 |
| HB0924 | Third Reading | 109 |
| HB0928 | Third Reading | 110 |
| HB0982 | Recalled | 114 |
| HB0985 | Third Reading | 115 |

Reading for the purpose of an amendment. Hearing no objection, leave is granted. On the Order of 2nd Reading is House Bill 982. Madam Secretary, have there been any Floor amendments approved for consideration?

SECRETARY SHIPLEY:

Floor Amendment No. 2, offered by Senator Maloney.

PRESIDING OFFICER: (SENATOR HALVORSON)

Senator Maloney, to explain your amendment.

SENATOR MALONEY:

Thank you, Madam President. The amendment, in fact, becomes the bill. I would be happy to explain the amendment on 3rd Reading.

PRESIDING OFFICER: (SENATOR HALVORSON)

Senator Maloney moves the adoption of Floor Amendment No. 2 to House Bill 982. All those in favor will say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY SHIPLEY:

No further amendments reported, Madam President.

PRESIDING OFFICER: (SENATOR HALVORSON)

3rd -- 3rd Reading. Senator Maloney, we are not going to move that on 3rd Reading just yet. Senator Forby, on House Bill 985. Madam Secretary, read the bill.

SECRETARY SHIPLEY:

House Bill -- 985.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR HALVORSON)

Senator Forby.

SENATOR FORBY:

Thank you. House Bill 985 is the prevailing wage bill. It would make work performed as maintenance, repair, assembly or disable {sic} (disassembly) on equipment, whether leased, owned or rent, subject to prevailing wages provided under Prevailing Wage Act. The Prevailing Wage Act requires contractors, subcontractors to pay laborer, workers and -- that works on machinery in public work construction places no less than the general prevailing wages for work that's similar -- that charters {sic} (character) in the county where the work is performed. I'll answer any questions.

PRESIDING OFFICER: (SENATOR HALVORSON)

Is there any discussion? Seeing none, the question is, shall House Bill 985 pass. Those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record.

On that question, there are 47 Yeas, 6 voting Nay, 0 voting Present. And House Bill 985, having received the required constitutional majority, is declared passed. Senator Bond, on House Bill 1011. Senator Bond seeks leave of the Body to return House Bill 1011 to the Order of 2nd Reading for the purpose of amendment. Hearing no objection, leave is granted. On the Order of 2nd Reading is House Bill 1011. Madam Secretary, have there been any Floor amendments approved for consideration?

SECRETARY SHIPLEY:

Floor Amendment No. 1, offered by Senator Bond.

PRESIDING OFFICER: (SENATOR HALVORSON)

Senator Bond, to explain your amendment.

SENATOR BOND:

It's a technical amendment. We changed one word.

PRESIDING OFFICER: (SENATOR HALVORSON)

Senator Bond moves the adoption of Amendment No. 1 to House Bill 1011. All those in favor will say Aye. Opposed, Nay. The Ayes have it. And the amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY SHIPLEY:

Yes, Madam President. Floor Amendment No. 2, offered by

Senator Bond.

PRESIDING OFFICER: (SENATOR HALVORSON)

Senator Bond, to explain your amendment.

SENATOR BOND:

This is the final version of the agreed upon bill of net metering that we worked out with the House in the Senate version.

PRESIDING OFFICER: (SENATOR HALVORSON)

Senator Bond moves the adoption of Amendment No. 2 to House Bill 1011. All those in favor will say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there any further Floor amendments approved for consideration?

SECRETARY SHIPLEY:

No further amendments reported.

PRESIDING OFFICER: (SENATOR HALVORSON)

3rd Reading. Senator Sullivan, on House Bill -- Senator Sullivan -- seeks leave of the Body to return House Bill 1019 to the Order of 2nd Reading for the purpose of an amendment. Hearing no objection, leave is granted. On the Order of 2nd Reading is House Bill 1019. Madam Secretary, are there any Floor amendments approved for consideration?

SECRETARY SHIPLEY: